

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 11 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 22-30150

Plaintiff-Appellee,

D.C. No. 1:20-cr-02024-SAB-1

v.

MEMORANDUM*

CLIFTON FRANK PETER,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Washington
Stanley A. Bastian, District Judge, Presiding

Submitted June 26, 2023**

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

Clifton Frank Peter appeals from the district court's judgment and challenges the 600-month sentence imposed following his guilty-plea conviction for three counts of second-degree murder, in violation of 18 U.S.C. §§ 1111 and 1153. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Peter contends that his above-Guidelines sentence is substantively unreasonable because it is a de facto life sentence, which is a sentence imposed for murders committed with premeditation. He argues that, although tragic, his offense “remains within the heartland” of the second-degree murder guideline, and his mental state of extreme intoxication distinguishes his conduct from that of premeditated, first-degree murder. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Under the facts of this case, the district court reasonably concluded that the applicable Guidelines range did not adequately account for the fact that Peter committed three murders. *See United States v. Christensen*, 732 F.3d 1094, 1100-01 (9th Cir. 2013) (sentencing court may conclude that the applicable Guideline range does not sufficiently account for the nature and circumstances of the defendant’s particular offense). The above-Guidelines sentence is substantively reasonable under the totality of the circumstances and the 18 U.S.C. § 3553(a) factors, including the serious nature of the offense, Peter’s history and characteristics, and the need to protect the public. *See Gall*, 552 U.S. at 51.

AFFIRMED.